



January 29, 1999

SENATE BILL No. 449

DIGEST OF SB 449 (Updated January 28, 1999 3:06 pm - DI 87)

Citations Affected: IC 8-1.5; IC 36-4.

Synopsis: Utility service boards; changing a town to a city. Provides that a utility service board may be established by an ordinance adopted by the municipal legislative body acting on its own motion or pursuant to a referendum initiated by a petition signed by at least 20% of the registered voters of a municipality. Provides that if the municipal legislative body adopts an ordinance establishing a utility service board, and a petition is filed within 60 days after adoption of the ordinance, the effective date of the ordinance is delayed until after the referendum. Provides that a town may be changed into a city by an ordinance adopted by the town legislative body acting on its own motion or pursuant to a referendum initiated by a petition signed by at least 20% of the registered voters of the town. Provides that if the town legislative body adopts an ordinance changing the town into a city, and a petition is filed within 60 days after adoption of the ordinance, the

(Continued next page)

Effective: July 1, 1999.

Skillman

January 13, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.
January 28, 1999, amended, reported favorably — Do Pass.

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effective date of the ordinance is delayed until after the referendum.

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SB 449—LS 7792/DI 44+



January 29, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 449

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1.5-3-3 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The legislative
- 3 body of a municipality may, by ordinance, provide for the control of
- 4 any or all of its municipally owned utilities by:
- 5 (1) the municipal works board;
- 6 (2) a board consisting of the members of the municipal legislative
- 7 body;
- 8 (3) a utility service board established under subsection (e) or
- 9 established before January 1, 1983, under IC 8-1-2-100
- 10 (repealed); or
- 11 (4) the board of directors of a department of waterworks
- 12 established under IC 8-1.5-4.
- 13 **An ordinance described in subdivision (3) takes effect sixty (60)**
- 14 **days after adoption by the municipal legislative body. However, if**
- 15 **the legislative body receives a petition in proper form under**

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subsection (b) during the sixty (60) day period, the ordinance does not take effect until it is approved by a majority of those voting at a referendum conducted under this section.

(b) If an ordinance has been adopted under subsection (a)(3), the question of creation of a utility service board shall be submitted to the registered voters of a municipality ~~may file a petition addressed to the legislative body if a petition~~ requesting that the question of the creation of a utility service board be submitted to a referendum **is filed with the municipal legislative body not more than sixty (60) days after adoption of the ordinance. If an ordinance has not been adopted under subsection (a)(3), a petition may be filed with the municipal legislative body at any time. Before the petition is presented to the legislative body, the county voter registration office of each county in which the municipality is located must certify whether each signature on the petition has been made by a registered voter of the municipality.** The petition must be signed by at least ~~the number~~ **twenty percent (20%)** of the registered voters of the municipality. ~~required under IC 3-8-6-3 to place a candidate on the ballot.~~

(c) Within thirty (30) days after a petition is filed, the municipal clerk shall certify to the legislative body and to the county election board that a sufficient petition has been filed.

(d) Following certification, the legislative body shall submit the question of the creation of a utility service board to a referendum at the next election. The question shall be submitted to the registered voters of the municipality by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the legislative body of the municipality of _____ adopt an ordinance providing for the appointment of a utility service board to operate _____ (Insert name of utility here)?"

(e) If a majority of the voters voting on the question vote for the creation of a utility service board, the legislative body shall, by ordinance, establish a utility service board consisting of not less than three (3) nor more than seven (7) members. Not more than two-thirds (2/3) of the members may be of the same political party. All members must be residents of the area served by the board. The ordinance must provide for:

(1) a majority of the members to be appointed by the executive and a minority of the members to be appointed by the legislative body;

(2) the terms of the members, which may not exceed four (4) years, with initial terms prescribed so that the members' terms will



be staggered;

(3) the salaries, if any, to be paid to the members; and

(4) the selection by the board of a chairman, who shall not be considered the head of a department for purposes of IC 36-4-9-2.

(f) The registered voters of the municipality may also file a petition requesting that the question of the abolition of the utility service board be submitted to a referendum. The procedure for filing of the petition and the referendum is the same as that prescribed by subsections (b) through (d).

SECTION 2. IC 36-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. If (a) **The legislative body of a town that has a population of more than two thousand (2,000) it may change adopt an ordinance changing the town into a city. in the following manner:**

(+) The town legislative body may adopt a resolution submitting to the town's voters

If an ordinance is adopted under this subsection, the town changes into a city when its officers are elected and qualified. However, if the legislative body receives a petition in proper form not more than sixty (60) days after adoption of the ordinance, the ordinance takes effect only if a majority of those voting at an election conducted under this section vote in favor of changing the town to a city.

(b) If an ordinance has been adopted under subsection (a), the question of whether the a town should change into a city the legislative body shall adopt such a resolution if at least the number shall be submitted to the registered voters of the town if a petition requesting that the question be considered at an election is filed with the town legislative body not more than sixty (60) days after adoption of the ordinance. If an ordinance has not been adopted under subsection (a), a petition may be filed with the town legislative body at any time. Before the petition is presented to the legislative body, the county voter registration office of each county in which the town is located must certify whether each signature on the petition has been made by a registered voter of the town. The petition must be signed by at least twenty percent (20%) of the registered voters of the town. required under IC 3-8-6-3 to place a candidate on the ballot petition it to do so. The following requirements apply to an election conducted under this section:

(1) Not more than thirty (30) days after the petition is filed, the town clerk-treasurer shall certify to the legislative body and to the county election board that a sufficient petition has



1 **been filed.**

2 **(2) Following certification of a petition under subdivision (1),**
 3 **the legislative body shall adopt a resolution submitting the**
 4 **question to the registered voters of the town. The legislative**
 5 **body shall** file a copy of the resolution with the clerk of the
 6 circuit court for each county in which the town is located. The
 7 circuit court clerk shall immediately certify the resolution to the
 8 county election board.

9 ~~(2)~~ **(3)** The resolution must fix a date for an election on the
 10 question. If the election is to be a special election, the date must
 11 be not less than thirty (30) nor more than sixty (60) days after the
 12 notice of the election. If the election is to be on the same date as
 13 a general election, the resolution must state that fact and be
 14 certified in accordance with IC 3-10-9-3.

15 ~~(3)~~ **(4)** Notice of the election must be given by the clerk of the
 16 circuit court in the manner prescribed by IC 3-8-2-19. IC 3-10-6
 17 applies to the election.

18 ~~(4)~~ **(5)** The question shall be placed on the ballot in the form
 19 prescribed by IC 3-10-9-4 and must state "Shall the town of
 20 _____ change into a city?".

21 ~~(5)~~ **(6)** If a majority of those voting on the question vote "yes", **the**
 22 **town legislative body shall adopt an ordinance changing the**
 23 **town to a city if such an ordinance has not been adopted**
 24 **under subsection (a).** The town changes into a city when its
 25 officers are elected and qualified. ~~otherwise~~ **If a majority of**
 26 **those voting on the question vote "no",** the town remains a
 27 town.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 449, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 12, after "time." insert **"Before the petition is presented to the legislative body, the county voter registration office of each county in which the municipality is located must certify whether each signature on the petition has been made by a registered voter of the municipality."**

Page 3, line 28, after "time." insert **"Before the petition is presented to the legislative body, the county voter registration office of each county in which the town is located must certify whether each signature on the petition has been made by a registered voter of the town."**

and when so amended that said bill do pass.

(Reference is to SB 449 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 0.

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